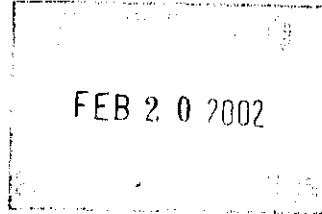


#420221

CITY, HAYES, MEAGHER & DISSETTE, P.C.
ATTORNEYS AT LAW



FIFTY CONGRESS STREET
BOSTON, MASSACHUSETTS 02109
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February 14, 2002

U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

LDCA

dc

Attn.: Ms. Carlyn Winter Prisk (3HS11)

Aberthaw Construct.
Company Inc

Re: Aberthaw Construction Company, Inc.

Dear Ms. Winter Prisk:

I represent Aberthaw Construction Company, Inc. of 76 Treble Cove Road, North Billerica, MA 01862. Aberthaw Construction Company, Inc. has received an undated letter signed by Henry J. Sokolowski, Chief, Enforcement and Federal Facilities Branch, requesting information concerning the release, or threat of release, of hazardous substances, pollutants or contaminants into the environment at the Clearview Landfill, Folcroft Landfill, Folcroft Landfill Annex, portions of the Lower Darby Creek Area Superfund site, located in Delaware and Philadelphia Counties, Pennsylvania ("the Site"). For the reasons hereinafter stated, Aberthaw Construction Company, Inc. has no information concerning the subject releases or threats of release, it has never generated wastes at locations owned or operated by Aberthaw Construction Company, Inc., nor have any such wastes been transported to and/or disposed of at the Site. We request that your office make note of the following facts.

Aberthaw Construction Company, Inc. was formed in 1991 by Mr. James Alley. Mr. Alley had been an officer and employee of an entirely separate corporation named Aberthaw Construction Co. Mr. Alley terminated his employment with Aberthaw Construction Co. Mr. Alley was not a shareholder of Aberthaw Construction Co. Neither Aberthaw Construction Co. nor any of its shareholders was or is a shareholder in Aberthaw Construction Company, Inc. No director of Aberthaw Construction Co. is or was a director of Aberthaw Construction Company, Inc. Aberthaw Construction Co. has no interest of any kind in Aberthaw Construction Company, Inc. Aberthaw Construction Company, Inc. has no interest in Aberthaw Construction Co.

Ms. Carlyn Winter Prisk
February 14, 2002
Page Two

Seeking to utilize the goodwill associated with the name "Aberthaw," Mr. Alley purchased from Aberthaw Construction Co. in 1991 the right to use the name "Aberthaw" in the new corporation he intended to form. Mr. Alley additionally purchased certain equipment from Aberthaw Construction Co. This was an arms length transaction in which buyer and seller were each represented by counsel. Aberthaw Construction Company, Inc. established itself at its place of business in Billerica, Massachusetts in 1991. It has never shared a location with Aberthaw Construction Co. It is not a successor to Aberthaw Construction Co., nor is it liable for any wastes allegedly generated or transported by Aberthaw Construction Co.

Aberthaw Construction Company, Inc. has no knowledge of any wastes. Aberthaw Construction Company, Inc. has no documents of any kind relating to such wastes. Aberthaw Construction Company, Inc. has never performed any work in Pennsylvania, nor has it generated or transported any such waste in Pennsylvania or elsewhere. There is no basis in law or in fact to believe that Aberthaw Construction Company, Inc. has or had any involvement in or responsibility for generating or transporting such wastes, or to attempt to impose any liability on Aberthaw Construction Company, Inc. for work performed or wastes generated or transported by others.

We further provide answers to the questions contained in enclosure F on the attached response of Aberthaw Construction Company, Inc.

Very truly yours,



Kieran B. Meagher

Attachment

cc: Aberthaw Construction Company, Inc.

RESPONSE OF ABERTHAW CONSTRUCTION COMPANY, INC.

1. State the name of your company, its mailing address, and telephone number. Further identify:
 - a. The dates and states of incorporation of your company;
 - b. The date and original state of incorporation of your company; and,
 - c. The parent corporation of your company, if any, and all subsidiaries or other affiliated entities.

Answer

Aberthaw Construction Company, Inc., Northwood Executive Park, 76 Treble Cove Road, North Billerica, MA, 01862. 978-670-2900.

- a. March 29, 1991, Massachusetts
 - b. March 29, 1991, Massachusetts
 - c. None
2. What is the current nature of the business or activity conducted by your company in the Philadelphia, Pennsylvania area? What was the nature of your business or activity between 1958 and 1976? Please describe in detail. If the nature of your business or activity changed from the period of 1958 to 1976 to the present, please provide a detailed explanation of the changes to date.

Answer

Aberthaw Construction Company, Inc. does not conduct and has never conducted any business or activity in the Philadelphia, Pennsylvania area. Aberthaw Construction Company, Inc. did not conduct any business or activity between 1958 and 1976. As Aberthaw Construction Company, Inc. was not in existence between 1958 and 1976, no changes occurred.

3. Identify all persons currently or formerly employed by your company who have or may have personal knowledge of your operations and waste disposal practices between 1958 and 1976 at your work sites or facilities in the Philadelphia, Pennsylvania area. For each such person, state that person's employer, job title, dates of employment, current address, and telephone number. If the current telephone number or address is not available, provide the last known telephone number or last known address of such person.

Answer

There are no persons currently or formerly employed by Aberthaw Construction Company, Inc. who have or may have personal knowledge of "operations and waste disposal practices between 1958 and 1976 at work sites or facilities in the Philadelphia, Pennsylvania area" because Aberthaw Construction Company, Inc. did not exist between 1958 and 1976 and Aberthaw Construction Company, Inc. had no work sites or facilities in the Philadelphia, Pennsylvania area during that period of time or any other period of time.

4. Describe the types of documents generated or maintained by you concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste at work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976.
 - a. Provide a description of the information included in each type of document and identify the person who was/is the custodian of the documents;
 - b. Describe any permits or permit applications and any correspondence between you company and/or establishment(s), and any regulatory agencies regarding the transportation and disposal of such wastes; and
 - c. Describe any contracts or correspondence between your company and/or establishment(s) and any other company or entity regarding the transportation and disposal of such wastes.

Answer

Aberthaw Construction Company, Inc. has not generated or maintained any documents concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant, or other waste at work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976 because Aberthaw Construction Company, Inc. did not exist during that period of time and further had no work sites or facilities in the Philadelphia, Pennsylvania area then or thereafter up through and including the date of this response.

- a. Not applicable.
 - b. Not applicable.
 - c. Not applicable.
5. Identify every hazardous substance used, generated, purchased, stored, or otherwise handled at your work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976. Provide chemical analyses and Material Safety Data Sheets ("MSDS"). With respect to each such hazardous substance, further identify:

- a. The process(es) in which each hazardous substance was used, generated, purchased, stored, or otherwise handled;
- b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such hazardous substance;
- c. The annual quantity of each such hazardous substance used, generated, purchased, stored, or otherwise handled;
- d. The beginning and ending dates of the period(s) during which such hazardous substance was used, generated, purchased, stored, or otherwise handled;
- e. The types and sizes of containers in which these substances were transported and stored; and
- f. The persons or companies that supplied each such hazardous substance to your company.

Answer

Aberthaw Construction Company, Inc. did not use, generate, purchase, store, or otherwise handle any hazardous substance at work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976 because it had no such work sites or facilities and it did not exist. Aberthaw Construction Company, Inc. has no chemical analyses or Material Safety Data Sheets for any such substances because it did not have such work sites or facilities and did not exist.

- a. Not applicable.
 - b. Not applicable.
 - c. Not applicable.
 - d. Not applicable.
 - e. Not applicable.
 - f. Not applicable.
6. Identify all by-products and waster generated, stored, transported, treated, disposed of, released, or otherwise handled by your company at work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976. With respect to each such by-product and waste identified, further provide:
- a. The process(es) in which each such by-product and waste was generated, stored, transported, treated, disposed of, released, or otherwise handled;
 - b. The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such by-product or waste;
 - c. The annual quantities of each such by-product and waste generated, stored, transported, treated, disposed of, released, or otherwise handled;
 - d. The types, sizes, and numbers of containers used to treat, store, or dispose of each such by-product or waste;

- e. The name of the individual(s) and/or company(ies) that disposed of or treated each such by-product or waste; and
- f. The location and method of treatment and/or disposal of each such by-product or waste.

Answer

There were no by-products or waste generated, stored, transported, treated, disposed of, released, or otherwise handled by Aberthaw Construction Company, Inc. at work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976 because Aberthaw Construction Company, Inc. had no such work sites or facilities, there were no such by-products or wastes, and Aberthaw Construction Company, Inc. did not exist between 1958 and 1976.

- a. Not applicable.
 - b. Not applicable.
 - c. Not applicable.
 - d. Not applicable.
 - e. Not applicable.
 - f. Not applicable.
7. Did your company ever contract with, or make arrangements with Clearview, Folcroft, Folcroft Annex, eastern Industrial, Tri-County Hauling, S. Buckly Trash Hauling, Barratt Rupurt, McCloskey Engineering, ABM Disposal Services, Marvin Jonas, Jonas Waste removal, Paolino Company, Schiavo Bros., Inc., Gene Banta Trash Removal and/or any other company or municipality to remove or transport material from work sites or facilities in the Philadelphia, Pennsylvania area between 1958 and 1976 for disposal? If so, for each transaction identified above, please identify:
- a. The person with whom you made such a contract or arrangement;
 - b. The date(s) on which or time period during which such material was removed or transported for disposal;
 - c. The nature of such material, including the chemical content, characteristics, and physical state (*i.e.*, liquid, solid, or gas);
 - d. The annual quantity (number of loads, gallons, drums) of such material;
 - e. The manner in which such material was containerized for shipment or disposal;
 - f. The location to which such material was transported for disposal;
 - g. The person(s) who selected the location to which such material was transported for disposal;

- h. The individuals employed with any transported identified (including truck drivers, dispatchers, managers, etc.) with whom your establishment dealt concerning removal or transportation of such material; and
- i. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your possession regarding arrangements made to remove or transport such material.

Answer

No.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.
- e. Not applicable.
- f. Not applicable.
- g. Not applicable.
- h. Not applicable.
- i. Not applicable.

- 8. Provide the names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976, may have:
 - a. Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the site;
 - b. Arranged for the disposal or treatment of materials at Clearview, Folcroft and Folcroft Annex or other areas of the site; and/or
 - c. Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex or other areas of the site (either directly or through transshipment points) for disposal or treatment.

Answer

Aberthaw Construction Company, Inc. has no knowledge of the names, titles, areas of responsibility, addresses, and telephone numbers of any such persons because it did not exist between 1958 and 1976.

- 9. For every instance in which your establishment(s) disposed of or treated material at Clearview, Folcroft and Folcroft Annex or other areas of the Site, or arranged for the disposal or treatment of material at the Site, identify:
 - a. The date(s) on which such material was disposed of or treated at the Site;

- b. The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);
- c. The annual quantity (number of loads, gallons, drums) of such material;
- d. The specific location on the Site where such material was disposed of or treated; and
- e. Any billing information and documents (invoices, trip tickets, manifests, etc.) in your company's or establishment's(s') possession regarding arrangements made to dispose of or treat such material at the Site.

Answer

There were no instances in which Aberthaw Construction Company, Inc. disposed of or treated materials at any of the areas of the Site or arranged for the disposal or treatment of material at the Site.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.
- e. Not applicable.

10. Did your company, or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site? If so, identify the following:

- a. The date(s) the spill(s)/release(s) occurred;
- b. The composition (i.e., chemical analysis) of the materials which were spilled/released;
- c. The response made by you or on your behalf with respect to the spill(s)/release(s); and
- d. The packaging, transportation, and final disposition of the materials which were spilled/released.

Answer

No.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.

11. Please identify individuals employed by your company who were responsible for arranging for the removal and disposal of wastes, and individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions at your Philadelphia, Pennsylvania area work sites or facilities between 1958 and 1976. Provide current or last known addresses and telephone numbers where they may be reached. If these individuals are the same persons identified by your answer to question 3, so indicate.

Answer

There were no such individuals employed by Aberthaw Construction Company, Inc. because Aberthaw Construction Company, Inc. had no such work sites or facilities nor did it exist between 1958 and 1976.

12. Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination At Clearview, Folcroft and Folcroft Annex or any other areas of the Site? If so, please provide all documents pertaining to such assessments or investigations.

Answer

No.

13. If you have any information about other parties who may have information which may assist the EPA in its investigation of the Site, including Clearview, Folcroft and Folcroft Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.

Answer

Aberthaw Construction Company, Inc. has no such information.

14. Representative of your company:
- a. Identify the person(s) answer these questions on behalf of your company, including full name, mailing address, business telephone number, and relationship to the company.
 - b. Provide the name, title, current address, and telephone number of the individual representing your company to whom future correspondence

or telephone calls should be directed.

Answer

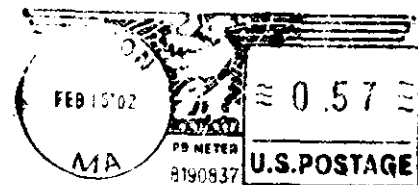
- a. Kieran B. Meagher, Esq., City, Hayes, Meagher & Dissette, P.C., Fifty Congress Street, Boston, MA, 02109. 617-523-3050. Counsel.
 - b. Kieran B. Meagher, Esq., City, Hayes, Meagher & Dissette, P.C., Fifty Congress Street, Boston, MA, 02109. 617-523-3050. Counsel.
15. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:
- a. Your document retention policy;
 - b. A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;
 - c. A description of the type of information that would have been contained in the documents; and
 - d. The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.

Answer

No documents solicited in this information request are "no longer available." The documents solicited in this information request never existed.

- a. Not applicable.
- b. Not applicable.
- c. Not applicable.
- d. Not applicable.

CITY, HAYES, MEAGHER & DISSETTE, P.C.
FIFTY CONGRESS STREET
BOSTON, MASSACHUSETTS 02109



U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Attn.: Ms. Carlyn Winter Prisk (3HS11)

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